

1 **MINUTES OF THE COTTONWOOD HEIGHTS CITY**
2 **PLANNING COMMISSION MEETING**

3
4 **Wednesday, March 7, 2018**
5 **5:00 p.m.**
6 **Cottonwood Heights City Council Room**
7 **2277 East Bengal Boulevard**
8 **Cottonwood Heights, Utah**
9

10 ***ATTENDANCE***

11
12 **Members Present:** Chair Allen Orr, Craig Bevan, Chris Coutts, Graig Griffin, Alternate Bob
13 Wilde
14

15 **Staff Present:** Community Development Director Brian Berndt, Senior City Planner
16 Michael Johnson, City Recorder Paula Melgar, City Attorney Shane
17 Topham
18

19 **Excused:** Jesse Allen, Sue Ryser
20

21 **WORK SESSION**
22

23 Chair Allen Orr called the meeting to order at 5:00 p.m.
24

25 **1.0 Review Business Meeting Agenda.**
26

27 The agenda items were reviewed and discussed.
28

29 **2.0 Additional Discussion Items.**
30

31 Senior City Planner, Michael Johnson, reported that the home daycare that was previously denied
32 has been reapplied for and a new fee has been paid. The original 2016 application was denied due
33 to the applicant's failure to be present at the Planning Commission Meeting where it was discussed.
34 She also did not provide a plan for pickups and drop-offs an there were numerous nuisance issues.
35 Since that time, the site has been cleaned up, which has allowed the City's Code Enforcement
36 Officer to close the nuisance case. The applicant has provided proof of residency and intends to
37 care for up to 12 children. He confirmed that they have had contrary statements from neighbors
38 who have indicated that the she is not a resident of the property listed on the application.
39

40 City Attorney, Shane Topham, commented that proving that the applicant is not a resident at any
41 time would provide the basis for bringing action to rescind the conditional use. Establishing
42 residency, however, is notoriously difficult to prove. He suggested that if staff still is not satisfied
43 by the applicant's proof of residency, they could ask for further proof or an affidavit. He indicated,
44 however, that neither is a City Code requirement.
45

1 Commissioner Wilde was in favor of asking the applicant how many nights she has spent at the
2 home in the last year. He asked for clarification regarding home daycares. Mr. Johnson reported
3 that home daycares should contain one available on-site parking space that is not required for use
4 of the dwelling in addition to an additional on-site parking space that is not required for use of the
5 dwelling for any employee not residing in the facility. Age requirements for attendance were
6 discussed.

7
8 Mr. Johnson next reviewed a request from Len Pickens for preliminary plat approval of a three-lot
9 subdivision. The only reason the matter was before the Commission was because Lot 2 is located
10 in an existing subdivision that was recently subdivided by a family trust. The property is located
11 west of Wasatch Boulevard on 8350 South. The lots are zoned R-1-8 and exceed 3,000 square
12 feet in size. Access to Lots 101 and 102 is through a private driveway and both are considered
13 flag lots. Lot 100 is a standard R-1-8 lot and the driveway will be platted as an easement. He
14 confirmed that the proposal complies with all Code requirements. Staff recommended approval
15 of the request.

16
17 Community Development Director, Brian Berndt, next reviewed a request from ICO Development
18 for a proposal to amend Chapter 19.51 PDD (Planned Development District) of the zoning
19 ordinance by revising the maximum density allowed in the Tier II Planned Development District.
20 A map of the tiers located throughout the City were reviewed. Each district has a different set of
21 criteria based on density and location. Staff supported the proposal because the PDD involves
22 performance-based zoning, which means there are variable factors that developers and those who
23 use the zoning must comply with to get approval. In comparing the PDD with mixed-use, the
24 flexibility of building height is more intense, and the process is complicated by more factors that
25 are involved in the final decision. He stated that a developer has to want to complete the process
26 to receive the additional benefits of the PDD.

27
28 The applicant reviewed the proposal and presented examples of similar design.

29
30 The Commission next discussed a City-initiated proposal to amend Title 12 (Subdivisions) in the
31 Cottonwood Heights Municipal Code. Mr. Johnson reviewed the proposed language. He stated
32 that changes clarify the meaning of certain terms and a requirement was removed for protection
33 strips, which are controversial. Flag lot language was reviewed. Mr. Johnson confirmed that the
34 amendment includes no procedural changes.

35 36 **3.0 Adjournment**

37
38 *Commissioner Griffin moved to adjourn the Work Session. Commissioner Bevan seconded the*
39 *motion. The motion passed with the unanimous consent of the Commission.*

40
41 The Work Meeting adjourned at 5:51 p.m.
42

1 **BUSINESS MEETING**

2
3 **1.0 WELCOME/ACKNOWLEDGEMENTS**

4
5 Chair Allen Orr called the meeting to order at approximately 6:00 p.m. and welcomed those in
6 attendance.
7

8 **2.0 CITIZEN COMMENTS**

9
10 Nancy Hardy reported that she reviewed the tentative plan for the gravel pit and suggested a UTA
11 transit hub with a parking garage. She stated that she works at the top of Big Cottonwood Canyon
12 and on several occasions only buses are allowed to access the canyon due to accidents or road
13 closures. She believed if there was a transit hub, those who frequent the canyons could use it as
14 their primary source of transportation. She believed skiers would prefer this type of service as
15 opposed to the park and ride.
16

17 **3.0 PUBLIC HEARINGS**

18
19 **3.1 (Project #HOC-18-001) Public Comment on a Request from Angela Lancaster for**
20 **Conditional Use Approval to Operate a Home Daycare at 1761 East Cloverdale Road.**
21

22 Mr. Johnson reported that the above request was originally applied for in 2016. At that time,
23 multiple nuisances were present on the property. At the City's recommendation, the applicant
24 withdrew the application until the items could be resolved. The nuisances have since been resolved
25 as far as Code Enforcement is concerned. Although this is the same application, the City renoticed
26 the item. The new request was for a home daycare for up to 12 children.
27

28 Chair Orr opened the public hearing.
29

30 Paul Ammon stated that the matter has been up for consideration for several years and he has
31 attended every meeting. He has poled all of the adjacent neighbors and all are opposed to the
32 request. Mr. Ammon lives across the street from the subject property and was opposed to his
33 property being used to accommodate pickups and drop-offs. He has reviewed the documents and
34 stated that the communication that has taken place has never changed. The applicant has been
35 absent from all meetings, with exception of the January hearing, and remains out of compliance.
36 He expressed concern with the well-being of the children in the applicant's care because she has
37 not been responsible enough to complete the proper paperwork and attend hearings. He urged the
38 Commission to deny the request.
39

40 Commissioner Wilde asked Mr. Ammon he if believes the applicant resides at the property.
41 Mr. Ammon did not believe she resides in the home, which is owned by the Kingston family.
42

43 There were no further comments. The public hearing was closed.
44

1 **3.2 (Project #SUB-18-001) Public Comment on a Request from Len Pickens for**
2 **Preliminary Plat Approval of a Three-Lot Subdivision at 3411 East 8350 South.**
3

4 Mr. Johnson reported that the above request is for a minor subdivision located at 3411 East 8350
5 South. He explained that a minor subdivision includes any subdivision under 10 lots. The proposal
6 is to amend a lot in an existing subdivision, which was previously subdivided for the purpose of
7 preparing the subject property for sale. Lot 100 has direct access to 8350 South and Wasatch
8 Boulevard to the east. Lots 101 and 102 are accessed by a private driveway and considered flag
9 lots. Setback issues were reviewed. The preliminary plat and preliminary construction plans have
10 been reviewed by City staff who compiled a list of technical corrections. Staff recommended
11 approval of the request.

12
13 Chair Orr opened the public hearing.

14
15 Jin Fredericksen expressed concern with the intersection and lack of traffic mitigation. She
16 believed it was dangerous and was opposed to an increase in density.

17
18 Eric Kraan was in favor of the proposal but asked the City to enhance the value of the property by
19 encouraging UDOT to mitigate the intersection. Safety was of concern and he encouraged the
20 applicant to speak on behalf of the community and have the safety issues addressed. He reported
21 that he spoke with Chief Watson from UFA and believed the addition of a street light was
22 reasonable as well as a reduction of speed limit to 35 mph.

23
24 Cindy Wallace reported that she has lived directly west of Lot 101 for 17 years. She walked the
25 lot with both the applicant and Mr. Johnson and asked that the line of trees buffering the properties
26 be required to remain. She was also of the understanding that flag lots devalue property and asked
27 for clarification.

28
29 Chair Orr advised Ms. Wallace to meet with staff who would be happy to address her questions
30 and concerns.

31
32 Mr. Jones addressed the Commission and stated that existing homes throughout the neighborhood
33 are two-stories. He did not believe that the proposed single-level homes will be complimentary to
34 the subdivision. He suggested the lot layout be reconfigured to eliminate one of the three homes
35 from the proposal.

36
37 Chair Orr pointed out that staff has reviewed the application and determined that the request is in
38 compliance with the Code. He stated that if the proposal complies with the zoning codes, the City
39 cannot deny the request.

40
41 Neil Wallace reported that his property abuts Lot 101. He expressed concern with the two zones
42 and the buffer that separates the two. He suggested that traffic mitigation be addressed as well as
43 zoning.

44
45 The applicant, Len Pickens, stated that he has been in business for 30 years. He confirmed that
46 the proposed homes will increase the value of the subdivision. He was concerned with the trees,

1 views, and making the homes marketable. His property and others are zoned R-1-8. He indicated
2 that there is a road located along the eastside of the property that will be the least intrusive access
3 to the lots and most agreeable for UFA.

4
5 There were no further public comments. The public hearing was closed.

6
7 **3.3 (Project #ZTA-18-002) Public Comment on a Request from ICO Development for a**
8 **Proposal to Amend Chapter 19.51 (Planned Development District) of the Zoning**
9 **Ordinance by Revising the Maximum Density Allowed in Tier II Planned**
10 **Development Districts.**
11

12 Mr. Berndt reported that the above request is to revise the original residential density as proposed
13 in the PDD from 25 units per acre to 35. As designed, the sites are geographically specific and
14 intended only for certain properties within the City. A map of the approved areas was reviewed.
15 Mr. Berndt explained that the UTA guidelines were used to establish minimum standards for
16 transit-oriented development, which they will ultimately become.

17
18 Chair Orr opened the public hearing.

19
20 Lynne Krauss stated that the underlying zone for Tier II properties is mixed-use, which allows for
21 12 units per acre and building heights of up to 35 feet. The City created the PDD Overlay Zone to
22 allow up to 25 units per acre with a 50-foot building height, which would effectively double the
23 density. She expressed opposition to an increase in density and traffic.

24
25 Eric Kraan asked how and why the PDD expansion will benefit the plan and the Tier levels and
26 not just the first person who puts forth ideas for a piece of property. He wanted to hear how the
27 goals that have been established are being accommodated by the proposed changes and how they
28 will be achieved.

29
30 Jin Fredericksen reported that she attended the City Council Meeting and stated that additional
31 notification is needed. With the PDD and an increase in density, she believed there will be an
32 impact in all of the blue zones. She suggested there be more notification given before any further
33 action is taken. City Recorder, Paula Melgar, reported that notice of all public meetings is
34 published on the Utah Public Notice website. Anyone can subscribe to receive email notifications
35 of all posted documentation.

36
37 Nancy Hardy stated that developers should respect the PDD and resubmit plans that meet the City's
38 requirements rather than request exceptions.

39
40 There were no further public comments. The public hearing was closed

41
42 **3.4 (Project #ZTA-17-001) Public Comment on a City-Initiated Proposal to Amend**
43 **Title 12 (Subdivisions) of the Cottonwood Heights Municipal Code.**
44

45 Mr. Johnson reported that the above proposal is for the addition and consolidation definitions to
46 amend Title 12 of the Cottonwood Heights Municipal Code. Staff removed unnecessary and

1 outdated provisions and created a definition section. Clarification of staff's review and approval
2 authority was described as well as a codified requirement to install bike lanes per the recently
3 adopted Bicycle Master Plan. An appendix was also added with visual representations of items
4 referenced in the ordinance. No changes were proposed to the approval process, authority, or
5 subdivision standards.

6
7 Chair Orr opened the public hearing.

8
9 Eric Kraan thanked staff for the proposed changes and especially for constructing bicycle lanes
10 and trails.

11
12 There were no further public comments. The public hearing was closed.

13 14 **4.0 ACTION ITEMS**

15 16 **4.1 (Project #HOC-18-001) Public Comment on a Request from Angela Lancaster for** 17 **Conditional Use Approval to Operate a Home Daycare at 1761 East Cloverdale Road.**

18
19 Commissioner Wilde stated that he understands that his views are at odds with others. He had a
20 difficult time understanding how a 12-person home daycare/preschool is an appropriate use in an
21 R-1-8 zone. The City has previously handled such a use and it is not intended to be a part of an R-
22 1-8 zone. The R-2-8 zone Section 19.31.30 lists appropriate conditional uses which includes
23 daycare/preschools. The Residential Multi-Family Zone Section 19.34.030 lists appropriate
24 conditional uses and also includes daycare/preschools. The R-1-8 Section 19.26.30 lists
25 appropriate conditional uses and is notably missing daycare/preschools, although home
26 occupations are allowed. He stated that Section 19.36.02A7 Home Occupations/
27 Daycare/Preschool includes appropriate uses in a mixed-use zone. As a matter of law as opposed
28 to a matter of fact, he believed this is not an appropriate use in a R-1-8 zone and stated that he
29 would be voting against the request.

30
31 Commissioner Bevan stated that the applicant submitted a drawing of pickup and drop-off
32 procedures that did not include additional parking for the home, an additional employee, or the
33 required additional space. He was opposed to the request.

34
35 Commission Griffin concurred and stated that the situation is further exacerbated by the fact that
36 the proposed use is on a corner lot. He was in favor of daycare uses in neighborhoods, but his
37 understanding was that there is contention with the proposal and he needs to be satisfied that it is
38 a functional and reasonable use within the neighborhood. The Commission has consistently heard
39 that this particular request does not have a good track record due to the absence of the applicant at
40 public meetings. He expressed opposition to the request.

41
42 Mr. Topham stated that the request is a conditional use. If the Commissioners feel there are things
43 that could be done that would resolve their concerns, those options should be explored.
44 Commissioner Bevan commented that based on the drawing, the request clearly does not work.
45 There is room for parking and plenty of landscape that could be made available to meet the
46 requirements.

1 Mr. Topham reviewed Code language from Chapter 10-985-072 which states,

2
3 **‘A conditional use shall be approved if reasonable conditions are proposed or**
4 **can be imposed to mitigate the reasonably anticipated detrimental effects of**
5 **the proposed use in accordance to applicable standards. If the reasonably**
6 **anticipated detrimental effects of a proposed conditional use cannot be**
7 **substantially mitigated by the proposed imposition of reasonable conditions to**
8 **achieve appliance with applicable standards, the conditional use may be**
9 **denied.’**

10
11 *Commissioner Wilde moved to deny Project #HOC-18-001 based on the homecare/preschool*
12 *use not being appropriate in the R-1-8 zone. The motion was seconded by Commissioner Bevan.*

13
14 Mr. Topham asked for an explanation of the term “appropriate”. He asked if it means neither a
15 permitted nor a conditional use in the zone. Commissioner Wilde stated that is not an allowed use.

16
17 *Vote on motion: Commissioner Wilde-Aye, Commissioner Bevan-Aye, Commissioner Coutts-*
18 *Nay, Commissioner Griffin-Nay, Chair Orr-Aye. The motion passed 3-to-2.*

19
20 **4.2 (Project #SUB-18-001) Public Comment on a Request from Len Pickens for**
21 **Preliminary Plat Approval of a Three-Lot Subdivision at 3411 East 8350 South.**
22

23 Chair Orr reported that the above request is from Len Pickens for preliminary plat approval of a
24 three-lot subdivision located at 3411 East 8350 South.

25
26 Commissioner Griffin stated that the proposal is fully conforming. From an appraisal standpoint
27 he stated that a flag lot does not make a difference and does not change the value of a home.

28
29 *Commissioner Bevan moved to approve Project #SUB-18-001. The motion was seconded by*
30 *Commissioner Wilde.*

31
32 Mr. Johnson acknowledged the traffic issue on Wasatch Boulevard and stated that is an example
33 of how a situation is exacerbated when a fully conforming three-lot subdivision continues to add
34 to the Wasatch Boulevard ingress and egress.

35
36 *Vote on motion: Commissioner Wilde-Aye, Commissioner Bevan-Aye, Commissioner Coutts-*
37 *Aye, Commissioner Griffin-Aye, Chair Orr-Aye. The motion passed unanimously.*
38

39 Chair Orr remarked that the City has heard and is aware of the citizens’ traffic concerns. UDOT
40 is involved with Wasatch Boulevard and he believed there needs to be ongoing evaluation. He
41 urged the residents to continue to give input.

42
43 Mr. Johnson reported that the City is involved in a Wasatch Boulevard Corridor Master Plan Study
44 that is being funded with a \$90,000 grant from the Wasatch Front Regional Council. They are
45 analyzing Wasatch Boulevard in preparation to draft a Long-Range Master Plan including
46 transportation, efficiency, safety, choices of transportation land use, a comprehensive study. The

1 second open house will be held Monday, March 19 where UDOT representatives will be present.
2 The City is working diligently to strengthen their partnership with UDOT as it relates to Wasatch
3 Boulevard.
4

5 **4.3 Approval of Minutes for February 7, 2018.**
6

7 *Commissioner Bevan moved to approve the minutes of February 7, 2018. The motion was*
8 *seconded by Commissioner Wilde. The motion passed with the unanimous consent of the*
9 *Commission.*
10

11 **5.0 ADJOURNMENT**
12

13 *Commissioner Bevan moved to adjourn. Commissioner Coutts seconded the motion. The*
14 *motion passed with the unanimous consent of the Commission.*
15

16 The Planning Commission Meeting adjourned at 7:15 p.m.

1 *I hereby certify that the foregoing represents a true, accurate and complete record of the Cottonwood*
2 *Heights City Planning Commission Meeting held Wednesday, March 7, 2018.*
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6 
7
8
9

10 Teri Forbes

11 T Forbes Group

12 Minutes Secretary

13
14 Minutes approved: June 6, 2018